

12-15-04

11/10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

ROSE et al.

Serial No.: 10/775,575

Filed: February 9, 2004

Atty. File No.: 4018-1-CON-2

For: "PRODUCT AND METHOD FOR
TREATING JOINT DISORDERS IN
VERTEBRATES"

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

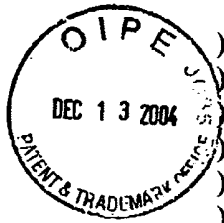
Dear Sir:

Applicants submit this Amendment and Response to address the Office Action having a mailing date of August 12, 2004. Enclosed herewith is a petition for a one-month extension of time, thereby extending the time period for response from November 12, 2004 to December 12, 2004, as well as a check in the amount of \$110.00 as the fee for such extension. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970.

Please amend the above-identified patent application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.



Group Art Unit: 1654

Examiner: Susan D. Coe

AMENDMENT AND RESPONSE

"EXPRESS MAIL" MAILING LABEL NUMBER: EV539128562US	
DATE OF DEPOSIT: 12/13/04	
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.	
TYPED OR PRINTED NAME:	Amy S. Duarte
SIGNATURE:	<i>Amy S. Duarte</i>

Free apply only

2/16/2004 YPOLITE1 00000060 10775575

2 FC:2251

60.00 OP

01/07/2005 TEUGBS 00000006 191970 10775575

01 FC:2201 100.00 DA

12/16/2004 YPOLITE1 00000060 10775575

01 FC:2814

65.00 OP

Application No. 10/775,575
Amendment dated Dec. 13, 2004
Reply to Office Action of Aug. 12, 2004

evaluation of the obviousness or non-obviousness of claims must not be made with the benefit of hindsight using the present application as a blueprint to reconstruct the claimed invention from the references. *See Interconnect Planning Corp. v. Feil*, 227 USPQ 543 (Fed.Cir. 1985). The Examiner's examination of the present invention should not be predicated upon the obviousness of particular components but rather, should be based upon an evaluation of the invention as a whole, and in view of other relevant factors, such as the issued parent patents and the commercial success as discussed in the parent application (such arguments and data incorporated herein).

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw all §103 rejections.

Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned directly at (303) 863-2977.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Joseph E. Kovarik

Registration No. 33,005

1560 Broadway, Suite 1200

Denver, Colorado 80202-5141

(303) 863-9700

Date: 12/13/04